

(Added Pub. L. 102-484, div. A, title VIII, § 838(a), Oct. 23, 1992, 106 Stat. 2465; amended Pub. L. 103-35, title II, § 201(d)(5), (h)(2), May 31, 1993, 107 Stat. 99, 100; Pub. L. 107-314, div. A, title X, § 1041(a)(16), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 114-328, div. A, title X, § 1081(b)(4)(B), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 115-91, div. A, title X, § 1051(a)(19), Dec. 12, 2017, 131 Stat. 1561.)

#### RENUMBERING OF SECTION

*Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1870(f)(2), Jan. 1, 2021, 134 Stat. 4151, 4287, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 385 of this title, as added by section 1870(a) of Pub. L. 116-283, inserted after the table of sections at the beginning of subchapter V, and redesignated as section 4891 of this title. See Effective Date of 2021 Amendment note below.*

#### REFERENCES IN TEXT

Section 721(a) of the Defense Production Act of 1950, referred to in subsec. (b), is section 721(a) of act Sept. 8, 1950, ch. 932, as added by Pub. L. 100-418, title V, § 5021, Aug. 23, 1988, 102 Stat. 1425, which is classified to section 4565(a) of Title 50, War and National Defense. Section 721(a) of the Act was struck out, and a new section 721(a) was added, by Pub. L. 110-49, § 2, July 26, 2007, 121 Stat. 246. As so added, section 721(a) does not refer to investigations by the President or the President's designee.

#### AMENDMENTS

2017—Subsecs. (b), (c). Pub. L. 115-91 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required annual reports to Congress regarding the information collected under subsec. (a).

2016—Subsec. (c). Pub. L. 114-328 substituted “(50 U.S.C. 4565(a))” for “(50 U.S.C. App. 2170(a))”.

2002—Subsec. (a). Pub. L. 107-314 substituted “\$10,000,000” for “\$100,000”.

1993—Subsec. (a). Pub. L. 103-35, § 201(d)(5), substituted “respectively, that” for “respectively, which”.

Subsec. (d). Pub. L. 103-35, § 201(h)(2), struck out subsec. (d) which read as follows: “In this section, the term ‘defense critical technology’ has the meaning provided that term by section 2491(8) of this title.”

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

### § 2538. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

(a) **ORDERING AUTHORITY.**—In time of war or when war is imminent, the President, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) **COMPLIANCE WITH ORDER REQUIRED.**—A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) **SEIZURE OF MANUFACTURING PLANTS UPON NONCOMPLIANCE.**—In time of war or when war is

imminent, the President, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the head of that department is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the armed forces if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the head of such department; or

(3) to furnish them at a reasonable price as determined by the head of such department.

(d) **USE OF SEIZED PLANT.**—The President, through the head of any department, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) **COMPENSATION REQUIRED.**—Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) **CRIMINAL PENALTY.**—Whoever fails to comply with this section shall be imprisoned for not more than three years and fined under title 18.

(Added Pub. L. 103-160, div. A, title VIII, § 822(a)(1), Nov. 30, 1993, 107 Stat. 1704; amended Pub. L. 103-337, div. A, title VIII, § 811, Oct. 5, 1994, 108 Stat. 2815.)

#### TRANSFER OF SECTION

*Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4151, 4286, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 385 of this title, as added by section 1870(a) of Pub. L. 116-283, inserted after section 4881, and redesignated as section 4882 of this title. See Effective Date of 2021 Amendment note below.*

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4501 and 9501 of this title, prior to repeal by Pub. L. 103-160, § 822(a)(2).

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337, § 811(1), substituted “head of any department” for “Secretary of Defense”.

Subsec. (c). Pub. L. 103-337, § 811, substituted “through the head of any department” for “through the Secretary of Defense” and “opinion of the head of that department” for “opinion of the Secretary of Defense” in introductory provisions and “head of such department” for “Secretary” in pars. (2) and (3).

Subsec. (d). Pub. L. 103-337, § 811(1), substituted “head of any department” for “Secretary of Defense”.

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

**§ 2539. Industrial mobilization: plants; lists**

(a) LIST OF PLANTS EQUIPPED TO MANUFACTURE ARMS OR AMMUNITION.—The Secretary of Defense may maintain a list of all privately owned plants in the United States, and the territories, Commonwealths, and possessions of the United States, that are equipped to manufacture for the armed forces arms or ammunition, or parts thereof, and may obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) LIST OF PLANTS CONVERTIBLE INTO AMMUNITION FACTORIES.—The Secretary of Defense may maintain a list of privately owned plants in the United States, and the territories, Commonwealths, and possessions of the United States, that are capable of being readily transformed into factories for the manufacture of ammunition for the armed forces and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and may obtain complete information as to the equipment of each of those plants.

(c) CONVERSION PLANS.—The Secretary of Defense may prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(Added Pub. L. 103–160, div. A, title VIII, § 822(a)(1), Nov. 30, 1993, 107 Stat. 1705.)

**TRANSFER OF SECTION**

*Pub. L. 116–283, div. A, title XVIII, §§ 1801(d), 1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4151, 4286, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 385 of this title, as added by section 1870(a) of Pub. L. 116–283, inserted after section 4882, and redesignated as section 4883 of this title. See Effective Date of 2021 Amendment note below.*

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 4502(a)–(c) and 9502(a)–(c) of this title, prior to repeal by Pub. L. 103–160, § 822(a)(2).

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**§ 2539a. Industrial mobilization: Board on Mobilization of Industries Essential for Military Preparedness**

The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance, to organize and coordinate operations under sections 2538 and 2539 of this title.

(Added Pub. L. 103–160, div. A, title VIII, § 822(a)(1), Nov. 30, 1993, 107 Stat. 1705, § 2540; renumbered § 2539a, Pub. L. 103–337, div. A, title X, § 1070(a)(13)(A), Oct. 5, 1994, 108 Stat. 2856.)

**RENUMBERING OF SECTION**

*Pub. L. 116–283, div. A, title XVIII, §§ 1801(d), 1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4151, 4286, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 385 of this title, as added by section 1870(a) of Pub. L. 116–283, inserted after section 4883, and redesignated as section 4884 of this title. See Effective Date of 2021 Amendment note below.*

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in sections 4502(d) and 9502(d) of this title, prior to repeal by Pub. L. 103–160, § 822(a)(2).

**AMENDMENTS**

1994—Pub. L. 103–337 renumbered section 2540 of this title as this section.

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

**§ 2539b. Availability of samples, drawings, information, equipment, materials, and certain services**

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments, under regulations prescribed by the Secretary of Defense and when determined by the Secretary of Defense or the Secretary concerned to be in the interest of national defense, may each—

(1) sell, rent, lend, or give samples, drawings, and manufacturing or other information (subject to the rights of third parties) to any person or entity;

(2) sell, rent, or lend government equipment or materials to any person or entity—

(A) for use in independent research and development programs, subject to the condition that the equipment or material be used exclusively for such research and development; or

(B) for use in demonstrations to a friendly foreign government;

(3) make available to any person or entity, at an appropriate fee, the services of any government laboratory, center, range, or other testing facility for the testing of materials, equipment, models, computer software, and other items; and

(4) make available to any person or entity, through leases, contracts, or other appropriate arrangements, facilities, services, and equipment of any government laboratory, research center, or range, if the facilities, services, and equipment provided will not be in direct competition with the domestic private sector.

(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available under subsection (a)(3) are confidential and may not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

(c) FEES.—Fees made available under subsections (a)(3) and (a)(4) shall be established in